REMARKS

The Office Action mailed **March 7, 2006** has been carefull y considered. Reconsideration in view of the following remarks is respectfully requested.

Claims 8, 20, and 46 have been amended to further particularly point out and distinctly claim subject matter regarded as the invention. Support for these changes may be found in the specification, FIG. 1 and corresponding text.

The 35 U.S.C. § 112, First Paragraph Rejection

Claims 3, 4, 11, 12, 15, 16, 23, 24, 29, 30, 31, 37, 38, 41, 42, 49 and 50 were rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was allegedly not described in the specification in such a way as to enable one of ordinary skill in the art to practice the invention. This objection is respectfully traversed.

Regarding the rejection of Claims 3, 4, 15, 16, 29, 30, 42, and 43, paragraph 19 of the Specification as filed recites:

> When a user selects a *title* to order, this information is sent from the set-top box 104 to the operator server 100 via the Internet 112 at 206. The operator server 100 collects orders from many users. Then a transmission schedule is compiled. This transmission schedule is constantly updated as orders come in. How the *movies* are scheduled for transmission is determined by the following guidelines:
> 1) If the requested movie has not yet been added to the transmission schedule, it is added.
> 2) If the requested movie has already been added to the transmission schedule (most likely by it being previously ordered by another user).
> 3) If the transmission schedule is empty, the most requested *movies* are queued for transmission.
> Specification p. 19. (emphasis added)

Paragraph 20 of the Specification as filed recites:

> Since it does not any additional money to transmit movies, it is more efficient if the queue is never empty. Therefore, in accordance with the third guideline listed above, a

> statistical analysis of the frequency with which the *movies* are ordered is undertaken, and a preemptive transmission schedule can be created. This preemptive schedule may even be viewed by the user via the set-top box as many users may have trouble selecting from a huge library of *movies* and may want to simply select one of the more *popular selections*. Specification p. 20. (emphasis added)

Paragraphs 19 and 20 of the Specification as filed clearly indicate that the terms "title" and "movie" are used interchangeably, and that the "popular selections" refer to titles or movies selected relatively frequently by users. Therefore, the Applicant respectfully submits that the term "popular titles" is described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention.

Regarding the rejection of Claims 11, 23, 37, 49, 12, 24, 38, and 50, paragraph 24 of the Specification as filed recites:

> In a specific embodiment of the present invention, the set-top box 104 may additionally contain a storage device such as a hard drive, which can store a number of movies. This allows the set-top box to receive the movie and then play it back for the user whenever the user wishes, even allowing the user to pause or rewind the movie if interrupted. *This also allows the length of time of the satellite transmission of the movie to be different from the movie's playing time, thus allowing the delivery company to deliver the movie faster or slower than the typical broadcast time depending upon efficiency and bandwidth.* It is also possible for the delivery company to encode a maximum number of replays within the movie as stored on the set-top box, preventing the user from viewing the movie more than a predetermined number of times by automatically deleting it once the limit is reached.
> Specification p. 24. (emphasis added)

Paragraph 24 of the Specification as filed clearly indicates that the storage capability of the set-top box enables the set-top box to deliver a movie (which contains audiovisual data) at a rate that is different than the time required to broadcast or play the movie. Therefore, the Applicant respectfully submits that the terms "a rate faster than said playing speed" and "a rate slower than said playing speed" is described in the specification in such a way as to reasonably convey to one

skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention.

The 35 U.S.C. § 112, Second Paragraph Rejection

Claims 3, 4, 8, 15, 16, 20, 29, 30, 41 and 46 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter applicant regards as the invention. This objection is respectfully traversed.

Regarding Claims 3, 15, 29, and 41, the Applicant respectfully submits the rejection of the as allegedly having insufficient antecedent basis for the limitation "popular titles" is improper, as the term "popular titles" is introduced in Claims 3, 15, 29, and 41; reference is not made to a previously-recited term. MPEP § 2173.05(e) recites: "If the scope of a claim would be reasonably ascertainable by those skilled in the art, then the claim is not indefinite."

Regarding Claims 8, 20, and 46, with this Amendment, Claims 8, 20, and 46 have been amended to recite an operator server coupled to a database.

Regarding dependent claims 4, 16, 30, and 42, the arguments above with respect to the respective independent claims apply here as well. The base claims being allowable, the dependent claims must also be allowable.

The 35 U.S.C. § 102 Rejection

Claims 1-52 were rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by Morales[1] This rejection is respectfully traversed.

[1] U.S. Patent No. 5,291,554 to Morales.

According to the M.P.E.P., a claim is anticipated under 35 U.S.C. § 102(a), (b) and (e) only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.[2]

The Examiner states:

> ...Morales teaches receiving a request for audiovisual data from the user via a network, said audiovisual data corresponding to said request having a title (Column 6 lines 43 - 68);
> determining if said title is already in a transmission schedule (Column 6 lines 43 - 68);
> adding said title to said transmission schedule if it is not already in said transmission schedule (Column 6 lines 43 - 68);
> encrypting said audiovisual data corresponding to said request using an encryption algorithm, said encryption algorithm having a corresponding decryption algorithm (Column 6 lines 18 - 34);
> generating a decryption key unique to the user using said corresponding decryption algorithm (Column 6 lines 18 - 34);
> forwarding said decryption key to the user via said network (Column 5 lines 60 – 68); and
> transmitting said audiovisual data corresponding to said request to a satellite for receipt by the user with a satellite dish, said transmitting occurring in accordance with said transmission schedule (Column 6 line 58 - Column 7 line 36).[3]

Contrary to the Examiner's statement, the cited portion of Morales does not disclose or suggest generating a decryption key unique to the user using said corresponding decryption algorithm as required by Claim 1. The Examiner refers to the following portion of Morales in support of his contention:

> The program downloaded on communication link 11 encrypted with key 20 is stored at the subscriber station either in digital, analog, encrypted or decrypted format in accordance with a preferred style of system operation. Assume for this embodiment that the encrypted program is stored at 51 to be descrambled with key 20 under control of software section 52 at the viewers convenience, as commanded from the remote control unit 28. To assure a single viewing, the one-shot software of section 52 is downloaded from the interactive data control center. This software is programmed to self destruct and erase after one viewing. Although a software expert might divert and pirate a single program by writing special software for the subscriber home unit computer, the time

[2] Manual of Patent Examining Procedure (MPEP) § 2131. See also *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

[3] Office Action dated March 7, 2006, ¶6.

> taken and cost for decrypting would be so high compared to the cost of rentals that there would be little motivation.[4]

Thus, nowhere in the cited portion of Morales is there any disclosure or suggestion of generating a decryption key unique to the *user* using said corresponding decryption algorithm as required by Claim 1. Accordingly, the Examiner's rejection of Claim 1 under 35 U.S.C. § 102 is unsupported by the art and must be withdrawn.

And since Morales does not teach generating a decryption key as required by Claim 1, it cannot teach forwarding said decryption key to the user via said network as also required by Claim 1.

Dependent Claims 2-12

Claims 2-12 depend from Claim 1. Claim 1 being allowable, Claims 2-12 must be allowable for at least the same reasons.

Claim 2

The Examiner states:

> ... Morales teaches wherein said network is the Internet (Column 4 lines 37 - 47).[5]

Contrary to the Examiner's statement, the cited portion of Morales does not disclose wherein said network is the Internet. The Examiner refers to a portion of Morales that refers to U.S. Patent No. 4,591,906 to Morales-Garza et al. But the term "Internet" can be found nowhere in Morales or Morales-Garza et al. For this additional reason, the Examiner's rejection of Claim 2 under 35 U.S.C. § 102 is unsupported by the art and must be withdrawn.

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[4] Morales, Col. 6, ll. 18-34.
[5] Office Action dated March 7, 2006, ¶ 9.

Claim 3

The Examiner states:

> ...Morales teaches if said transmission schedule is empty, adding one or more popular titles to said transmission schedule (Column 7 lines 3 - 25).[6]

Contrary to the Examiner's statement, the cited portion of Morales does not disclose or suggest if said transmission schedule is empty, adding one or more popular titles to said transmission schedule as required by Claim 1. The Examiner refers to the following portion of Morales in support of his contention:

> However, to accommodate larger audiences, shared-cost options in multiple home groupings are available, such as twelve member groups B or 125 member groups S (already on order with 63 participants). The catalog menu may be kept updated currently if downloaded for browsing from the data center, thus to include such other information as expected viewing date. The software controlled computer at the data control center will process the orders and communicate with the vendor to arrive at a viewing schedule when the group is assembled.
> The menu of FIG. 5B will reflect any pending and scheduled programs monitored by the subscriber station computer under control of its interactive software options. Thus, it may be seen that immediately after placing an order, the "Pending" selection "Gone With The Wind" is listed with the updated group count and estimated time of scheduling. A fully scheduled program will identify the channel and date as illustrated by the "Olympics" entry. Interactivity options at the subscriber station will usually permit these programs to be automatically recorded when received for viewing at the subscriber's timing.[7]

The cited portion of Morales does not disclose or suggest checking whether a transmission schedule is empty, nor does it disclose adding one or more popular titles to the transmission schedule if the transmission schedule is empty, as required by Claim 1. For this additional reason, the Examiner's rejection of Claim 3 under 35 U.S.C. § 102 is unsupported by the art and must be withdrawn.

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[6] Office Action dated March 7, 2006, ¶ 10.

Claim 4

The Examiner states:

> ... Morales teaches wherein said one or more popular titles are determined by statistical analysis of past requests by users (Column 5 lines 51 – 68 and Column 7 lines 14 – 25).[8]

Contrary to the Examiner's statement, the cited portions of Morales do not disclose or suggest wherein said one or more popular titles are determined by statistical analysis of past requests by users as required by Claim 1. The Examiner refers to the following portion of Morales in support of his contention:

> The menu of FIG. 5B will reflect any pending and scheduled programs monitored by the subscriber station computer under control of its interactive software options. Thus, it may be seen that immediately after placing an order, the "Pending" selection "Gone With The Wind" is listed with the updated group count and estimated time of scheduling. A fully scheduled program will identify the channel and date as illustrated by the "Olympics" entry. Interactivity options at the subscriber station will usually permit these programs to be automatically recorded when received for viewing at the subscriber's timing.[9]

The cited portion of Morales says nothing about statistical analysis of past requests. For this additional reason, the Examiner's rejection of Claim 4 under 35 U.S.C. § 102 is unsupported by the art and must be withdrawn.

Claim 5

The Examiner states:

> ...Morales teaches wherein said encryption algorithm is based on the Pretty Good Privacy (PGP) (Column 6 lines 18 - 28).[10]

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[7] Morales, Col. 7, ll. 3–25.
[8] Office Action dated March 7, 2006, ¶ 20.
[9] Morales, Col. 7, ll. 3–25.
[10] Office Action dated March 7, 2006, ¶ 11.

Contrary to the Examiner's statement, the cited portion of Morales does not disclose or suggest wherein said encryption algorithm is based on the Pretty Good Privacy (PGP) as required by Claim 1. The Examiner refers to the following portion of Morales in support of his contention:

> The program downloaded on communication link 11 encrypted with key 20 is stored at the subscriber station either in digital, analog, encrypted or decrypted format in accordance with a preferred style of system operation. Assume for this embodiment that the encrypted program is stored at 51 to be descrambled with key 20 under control of software section 52 at the viewers convenience, as commanded from the remote control unit 28. To assure a single viewing, the one-shot software of section 52 is downloaded from the interactive data control center.[11]

The cited portion of Morales speaks generally encryption and decryption, but does not disclose or suggest basing the encryption algorithm on PGP, as required by Claim 1. For this additional reason, the Examiner's rejection of Claim 5 under 35 U.S.C. § 102 is unsupported by the art and must be withdrawn.

Claim 11

The Examiner states:

> Claims 11, 23, 37 and 49 are rejected applied as above in rejecting Claims 1, 13, 27 and 39. Furthermore, Morales teaches wherein said audiovisual data corresponding to said request has a playing speed, and said transmitting includes transmitting said audiovisual data at a rate faster than said playing speed (Column 5 lines 51 -68 and Column 7 lines 14 – 25).[12]

Contrary to the Examiner's statement, the cited portions of Morales do not disclose or suggest wherein said audiovisual data corresponding to said request has a playing speed, and said transmitting includes transmitting said audiovisual data at a rate faster than said playing speed as

[11] Morales, Col. 6, ll. 11-28.
[12] Office Action dated March 7, 2006, ¶ 15.

required by Claim 1. The Examiner refers to the following portions of Morales in support of his contention:

> The communication links 10-15 may use different satellites 1A, 1B, 1C, or equivalent wireless communication links of a single satellite to meet the needs of the various communicators and to assure enough channels in the separate satellite 1C for custom viewing without significant waiting time delays. The link 16 between the repeater cells 3 and the subscriber home units 4 is preferably a 218 MHz link conforming with FCC standards for interactive video data service activities.
> This system accordingly permits the subscribers to determine what programs are available from the vendor's memory bank 36, to process a custom order for receiving a private viewing over communication link 10-11, and to decrypt using key 30 and privately view the ordered program at home on the TV receiver 49. However, the system contains other features pertinent to the downloading of software programs, which follow.[13]
>
> The menu of FIG. 5B will reflect any pending and scheduled programs monitored by the subscriber station computer under control of its interactive software options. Thus, it may be seen that immediately after placing an order, the "Pending" selection "Gone With The Wind" is listed with the updated group count and estimated time of scheduling. A fully scheduled program will identify the channel and date as illustrated by the "Olympics" entry. Interactivity options at the subscriber station will usually permit these programs to be automatically recorded when received for viewing at the subscriber's timing.[14]

The cited portions of Morales say nothing about transmission rates or playing speeds, let alone any relationship between the two. For this additional reason, the Examiner's rejection of Claim 11 under 35 U.S.C. § 102 is unsupported by the art and must be withdrawn.

Claim 12

The Examiner states:

> ... Morales teaches wherein said audiovisual data corresponding to said request has a playing speed, and said transmitting includes transmitting said audiovisual data at a rate slower than said playing speed (Column 5 lines 51 -68 and Column 7 lines 14 - 25).[15]

[13] Morales, Col. 7, ll. 14-28
[14] Morales, Col. 7, ll. 14–25.
[15] Office Action dated March 7, 2006, ¶ 17.

The arguments made above with respect to Claim 11 apply here as well. Claim 11 being allowable, Claim 12 must be allowable for at least the same reasons.

Claim 25

The Examiner states:

> ... Morales teaches wherein said audiovisual data corresponding to said request has a playing speed, and said transmitting includes transmitting said audiovisual data at a rate slower than said playing speed (Column 5 lines 51 -68 and Column 7 lines 14 - 25).[16]

The arguments made above with respect to Claim 11 apply here as well. Claim 11 being allowable, Claim 25 must be allowable for at least the same reasons.

Claims 13-26, 27-38, and 39-50

Claims 13-26, 27-38, and 39-50 include limitations similar to Claims 1-12. Claims 27-38 are system claims corresponding to method claims 13-26. Claims 39-50 are apparatus claims corresponding to method claims 13-26. Claims 1-12 being allowable, Claims 3-26, 27-38, and 39-50 must be allowable for at least the same reasons.

Claims 51 and 52

Claim 51 is an in Re Beauregard claim corresponding to method claim 1. Claim 52 is an in Re Beauregard claim corresponding to method claim 13. Claims 1 and 13 being allowable, Claims 51 and 52 must be allowable for at least the same reasons.

[16] Office Action dated March 7, 2006, ¶ 18.

In view of the foregoing, it is respectfully asserted that the claims are now in condition for allowance.

Conclusion

It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited.

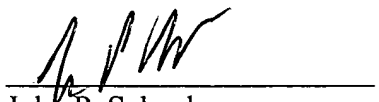
If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case. Please charge any additional required fee or credit any overpayment not otherwise paid or credited to our deposit account No. 50-1698.

Respectfully submitted,

THELEN REID & PRIEST, LLP

Dated: September 6, 2006



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